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4 DAVID BATISTE,
5 Plaintiff,
6 v.
7 CITY OF RICHMOND, et al.,
8 Defendants.
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10 Case No. [22-cv-01188-AMO](#)
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13 **ORDER DENYING RULE 60 MOTION
14 FOR RELIEF FROM ORDER**
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16 Re: Dkt. No. 130
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19 Before the Court is Hugo Mendoza's Rule 60 motion for relief from the Court's November
20 27, 2023 order on Defendants' motions for summary judgment. The matter is fully briefed and
21 suitable for decision without oral argument. Accordingly, the hearing set for **June 6, 2024** is
22 VACATED. *See Civil L.R. 7-1(b).* This Order assumes familiarity with the facts of the case, the
23 parties' arguments, the relevant law, as well as the Court's November 27, 2023 order. ECF 124.
24 Having read the parties' papers and carefully considered their arguments and the relevant legal
25 authority, and good cause appearing, the Court hereby **DENIES** the motion for the following
26 reasons.
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29 Rule 60(b)(1) allows relief where "mistake, inadvertence, surprise, or excusable neglect"
30 led to the final order. Fed. R. Civ. P. 60(b)(1). "Motions for relief from judgment pursuant to
31 Rule 60(b) are addressed to the sound discretion of the district court and will not be reversed
32 absent an abuse of discretion." *Casey v. Albertson's Inc.*, 362 F.3d 1254, 1257 (9th Cir. 2004).

33 Defendant Hugo Mendoza moves for relief from the Court's summary judgment order,
34 arguing that the Court made a mistake of law by ruling that Batiste exhausted his administrative
35 remedies against Mendoza and removing Mendoza's affirmative defense from the jury. ECF 130
36 at 3-7. The Court cannot agree.
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1 To begin with, Mendoza's instant motion mostly rehashes the evidence and arguments he
2 put before the Court in his motion for summary judgement.¹ See ECF 130 at 5-6 ("Batiste did not
3 name Mendoza in the caption of the administrative charge," Mendoza was named "in the body of
4 a charge as a supervising witness who heard others use the racist term, but not specifically as
5 someone who used the term," and he had no notice that he was the target of an investigation); ECF
6 69 at 11, ECF 86 at 5-6 (same). "[S]imply disagreeing with a court's decision does not meet the
7 definition of 'mistake, inadvertence, surprise, or excusable neglect.' " *In re Transpacific*
8 *Passenger Air Transportation Antitrust Litig.*, No. 07-CV-05634-CRB, 2023 WL 1428564, at *3
9 (N.D. Cal. Jan. 25, 2023), *aff'd*, No. 23-15118, 2024 WL 810703 (9th Cir. Feb. 27, 2024).

10 Mendoza further argues that the Court overreached in granting Batiste summary judgment
11 on administrative exhaustion because Batiste did not so move. The Ninth Circuit has "long
12 recognized that, where the party moving for summary judgment has had a full and fair opportunity
13 to prove its case, but has not succeeded in doing so, a court may enter summary judgment *sua*
14 *sponte* for the nonmoving party." *Albino v. Baca*, 747 F.3d 1162, 1176 (9th Cir. 2014) (citing
15 cases). "[A] court may grant summary judgment without notice if the losing party has had a 'full
16 and fair opportunity to ventilate the issues involved in the motion.' " *In re Rothery*, 143 F.3d 546,
17 549 (9th Cir. 1998) (citations omitted); *see Gonzales v. CarMax Auto Superstores, LLC*, 840 F.3d
18 644, 654-55 (9th Cir. 2016) (quoting *Albino*, 747 F.3d at 1176) ("Although Gonzales did not
19 himself move for summary judgment in the district court, we may grant summary judgment *sua*
20 *sponte* to a nonmoving party if, drawing all inferences in favor of the moving party, there are no
21 genuine issues of material fact, the moving party has 'be[en] given reasonable notice that the
22 sufficiency of his or her claim will be in issue,' and the nonmoving party is entitled to summary
23 judgment as a matter of law."). In his motion for summary judgment, Mendoza raised whether
24 Batiste exhausted his administrative remedies against Mendoza. ECF 69 at 11. Mendoza was thus
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¹ In denying Mendoza's motion for summary judgment, the Court found that by naming Mendoza
27 in the body of the administrative charge as Batiste's supervisor and stating that Batiste's
28 colleagues referred to him as "Memín" for years, Batiste exhausted his administrative remedies
against Mendoza. ECF 124 at 11-12.

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Northern District of California

1 aware that the Court would consider the issue and had a “full and fair opportunity to prove [his]
2 case.” *See Albino*, 747 F.3d at 1176. Accordingly, Mendoza has not shown that the Court made a
3 mistake of law in concluding that Batiste exhausted his administrative remedies as a matter of law.

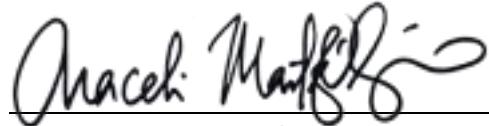
4 Mendoza finally contends that the Court erred in not “considering the totality of the
5 evidence [he] presented” regarding administrative exhaustion, and has thus “denied Mendoza a
6 jury trial of a viable affirmative defense[.]” ECF 130 at 6. First, Mendoza cites no authority for
7 the proposition that administrative exhaustion is properly put before a jury. Moreover, none of the
8 “disputed evidence” is material to the Court’s conclusion that Batiste established that he exhausted
9 his administrative remedies. *See* ECF 124 at 11-12; *Anderson v. Liberty Lobby, Inc.*, 477 U.S.
10 242, 248 (1986) (“Only disputes over facts that might affect the outcome of the suit under the
11 governing law will properly preclude the entry of summary judgment. Factual disputes that are
12 irrelevant or unnecessary will not be counted.”). While Mendoza may disagree with the Court’s
13 assessment of the legal significance of the offered evidence, that is insufficient basis on which to
14 grant relief.

15 For the foregoing reasons, the Court **DENIES** Mendoza’s motion for relief under Rule 60.

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IT IS SO ORDERED.

18 Dated: April 4, 2024

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ARACELI MARTÍNEZ-OLGUÍN
United States District Judge